

## IN THE HIGH COURT OF SINDH BENCH AT SUKKUR

*Criminal Acquittal Appeal No. S- 25 of 2025.  
(Shafqat Ali vs. The State and another).*

**Before;**  
***Mr. Justice Ali Haider 'Ada'***

**Fresh case**

1. For orders on office objection.
2. For orders on M.A N.1978/2025 (Ex/A).
3. For the hearing of the main case.

Appellant: Shafqat Ali, *through* Mr. Achar Khan Gabol, Advocate

Date of hearing: 09.03.2026.

Date of decision: 09.03.2026.

### **JUDGEMENT**

**Ali Haider 'Ada' J;** Through this Criminal Acquittal Appeal, the appellant, being the complainant, has assailed the judgment dated 18.02.2025 passed by the learned Civil Judge and Judicial Magistrate-II, Ghotki, in Criminal Case No.05 of 2024 arising out of FIR No.41 of 2023 registered at Police Station "A" Section, Ghotki for an offence under Section 489-F PPC, whereby the respondent No.2/accused was acquitted.

2. The crux of the prosecution case is that the appellant/complainant lodged the above FIR on 02.02.2023, while the alleged incident is stated to have taken place on 12.08.2022. According to the complainant, respondent No.2/accused received an amount of Rs.20,00,000/- from him and, in discharge of the said liability, issued a cheque in favour of the complainant. However, when the cheque was presented for encashment, it was dishonoured, which ultimately led to the registration of the FIR. After registration of the case, investigation was carried out by the Investigating Officer, who thereafter submitted the report/challan before the learned trial Court.

3. The learned trial Court, after taking cognizance of the matter and supplying the relevant documents to the respondent No.2/accused, framed charge against him, to which he pleaded not

guilty and claimed trial. In order to prove its case, the prosecution examined the appellant/complainant as well as other witnesses, namely Sikander and the Investigating Officer Illahi Bux. After examining these witnesses, the prosecution closed its side. Thereafter, the statement of respondent No.2/accused was recorded under the relevant provision of law, wherein he professed his innocence. However, he neither examined himself on oath nor produced any defence witnesses.

4. Upon completion of the trial and after hearing the learned counsel for the parties, the learned trial Court passed the judgment dated 18.02.2025, whereby the respondent No.2/accused was acquitted of the charge. Being dissatisfied with such judgment, the appellant/complainant has filed the present Criminal Acquittal Appeal.

5. Learned counsel for the appellant contended that the prosecution had fully established its case through reliable evidence and that the issuance of cheque by the respondent No.2/accused itself amounts to an admission of liability. He argued that the essential ingredients of Section 489-F PPC were clearly attracted in the present case, but the learned trial Court failed to properly appreciate the evidence available on record and wrongly acquitted the respondent No.2/accused, thereby committing an error of law.

6. the learned counsel for the appellant and perused the material available on record.

7. At the outset, it is necessary to determine whether the essential ingredients of Section 489-F PPC have been established in the present case. A careful examination of the record reveals that the prosecution has failed to establish the basic requirement of the said provision. It is well settled that mere issuance of a cheque does not constitute an offence under Section 489-F PPC unless it is proved that the cheque was issued dishonestly for repayment of a loan or to fulfill an obligation arising out of a lawful contract or agreement. In the present case, the prosecution evidence is silent on this crucial

aspect, as there is nothing on record to show that the respondent No.2/accused was legally bound to fulfill any such promise, contract, or agreement. In this regard, reliance can be placed upon the case of *Iqbal Ahmed v. Syed Danish Hussain Zaidi and 02 others* (2022 YLR Note 202).

8. Furthermore, the FIR was lodged on 02.02.2023, whereas the alleged incident had taken place on 12.08.2022. Although the appellant/complainant approached the learned Ex-Officio Justice of Peace and succeeded in obtaining an order for registration of FIR on 06.09.2022, even then there remains an unexplained delay of more than five months in the registration of the FIR. Such delay has not been satisfactorily explained by the complainant.

9. Additionally, the record does not disclose the circumstances under which the alleged amount of Rs.20,00,000/- was paid to the respondent No.2/accused, nor is there any evidence regarding the purpose or nature of the alleged transaction. The complainant has failed to produce any documentary or independent evidence to establish that the said amount was in fact paid to the respondent No.2/accused for any specific purpose or lawful transaction. In the absence of such evidence, the essential ingredients of the offence cannot be said to have been established. In this regard, guidance may be sought from the case of *Muhammad Sohail Haroon v. Shoukat Ali and 02 others* (2024 YLR 2804).

10. It is also a well-settled principle of law that an appeal against acquittal carries a very limited scope. The presumption of innocence in favour of an accused person is further strengthened by his acquittal at the trial stage, and the appellate Court normally does not interfere with such findings unless the judgment under challenge is shown to be perverse, arbitrary, or suffering from serious misreading or non-reading of evidence. In this context, reference may be made to the case of *Fida Hussain alias Saboo v. The State* (2025 SCMR 993), wherein the Honourable Supreme Court has reiterated the principle of “double presumption of innocence” in favour of an acquitted accused.

11. In view of the above facts and circumstances, and the reasons discussed hereinabove, this Court finds no justification to interfere with the judgment passed by the learned trial Court. Consequently, the instant Criminal Acquittal Appeal, being devoid of merit, is hereby dismissed along with the listed application.

*JUDGE*

ARBROHI